

<b>Notice of Allowability</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/976,839	LATIMER ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Allyson N Trail	2876	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed 7/16/2004.
2. ☒ The allowed claim(s) is/are 1-29,31-53,57-60,81-83 and 87-89.
3. ☒ The drawings filed on 5/28/03 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |   |   |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)  | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)                                   |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date <u>9/03/2004</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment  |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material          | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance                          |
|   | 9. <input type="checkbox"/> Other _____.  |

## **DETAILED ACTION**

### ***Amendment***

1. Receipt is acknowledged of the Amendment filed July 16, 2004.

### ***Examiner's Amendment***

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with John Rafter on September 3, 2004.

Regarding claim 44, line 2, the words "claim 30" have been changed to --claim 32--.

Regarding claim 45, line 2, the words "claim 30" have been changed to --claim 32--.

Regarding claim 45, line 5: The word "operating" has been changed to --scanning--.

### ***Remarks***

3. Claims 1-29, 31-53, 56-60 and 81-86 are pending in the present application. Claims 1-29, 31-53, 57-60 and 81-83 have been allowed. Claims 56 and 84-86 were rejected in the previous office action and are currently canceled without prejudice and new claims 87-89 have been added. Claims 87-89 depend on allowed claim 81.

### ***Allowable Subject Matter***

4. Claims 1-29, 31-53, 57-60, 81-83, and 87-89 are allowed over prior.

The following is an examiner's reason for allowance: Although prior art teaches performance evaluation methods, the above identified prior art of record, taken alone, or in combination with any other prior art, fails to teach or fairly suggest the specific features of claims 1-29, 31-53, 57-60, 81-83, and 87-89. The best prior art of record fails to specifically teach or fairly suggest the method of training a data reader operator or method of scanning, which are disclosed in the claims. Limitations not disclosed in prior art obtaining optimum read technique data of an operator, comparing the read technique data to the optimum read technique data to determine an effectiveness of the reading technique, and providing feedback indicating the effectiveness of the reading technique. Additionally, prior art fails to teach comparing the dynamic weight to the optimum dynamic weight data to determine an extent of lifting performed by the operator and providing data regarding the extent of lifting to at least one of the training systems. Furthermore, prior art fails to teach the feedback means comprising a visual feedback display on the housing, which is visible to the operator and the visual feedback display being in the form of a graphical display. Additionally, prior art fails to teach a weigh scale as defined in the remarks submitted by the applicant. The claimed dynamic weigh scale is a partial weight or a weight operation function, therefore it is not simply how much the item weighs as taught by Keys et al. Lastly, prior art fails to teach determining which of the first and second window accomplished the reading of the item. Moreover, one of ordinary skill in the art would not have been motivated to come to the claimed invention.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Response to Amendment***

5. Applicant's amendments canceled the previously rejected claims. Therefore the finality of that action is withdrawn and the current claims are now in condition for allowance.

***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to *Allyson N. Trail* whose telephone number is (571) 272-2406. The examiner can normally be reached between the hours of 7:30AM to 4:00PM Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee, can be reached on (571) 272-2398. The fax phone number for this Group is (703) 872-9306.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [[allyson.trail@uspto.gov](mailto:allyson.trail@uspto.gov)].

*All Internet e-mail communications will be made of record in the application file.*  
*PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record*

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*includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.*



Allyson N. Trail  
Patent Examiner  
Art Unit 2876  
September 3, 2004

**THIEN M. LE**  
**PRIMARY EXAMINER**